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DISTRICT OF UTAH

BY: _____
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*Attorneys for Defendant/Counterclaim-Plaintiff
International Business Machines Corporation*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff.

**UNSEALED DECLARATION OF
IRVING WLADAWSKY-BERGER
[Docket 332]**

Civil No. 2:03CV0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

I, Irving Wladawsky-Berger, declare as follows:


1. I am currently employed by International Business Machines Corporation (“IBM”) as Vice President, Technical Strategy and Innovation.
2. This declaration is submitted in connection with the lawsuit brought by The SCO Group, Inc. (“SCO”) against IBM, titled The SCO Group, Inc. v. International Business Machines Corporation, Civil No. 2:03CV-0294 DAK (D. Utah 2003). I make this declaration based upon personal knowledge.
3. On August 12, 2003, I met with counsel for IBM for the purpose of providing all documents in my possession that were responsive to SCO’s document requests. The attorneys discussed with me in detail each of the categories of documents sought by SCO through its document requests.
4. During this meeting, I, with help from my administrative assistant, identified the documents in my possession (in both hard copy or electronic form) that I believed might be responsive to the document requests. We subsequently searched for, located and forwarded all of those documents to IBM’s Corporate Litigation department in White Plains, New York.
5. I understand that further review by attorneys for IBM determined that none of the documents I provided were responsive to any of SCO’s document requests.
6. Subsequently, in both February 2004 and March 2004, my assistant and I searched again for documents that were responsive to additional document requests from SCO, as well as the March 3, 2003 Order of this Court. We did not find any additional responsive documents.

7. On October 29, 2004, I met again with several attorneys representing IBM in this litigation. During that meeting, I recalled the existence of two folders of electronic documents on my computer that I may have overlooked in our prior searches for relevant documents. I gave to the attorneys CDs containing copies of all of the documents in the two folders. I understand that the attorneys have determined that some of the documents I recently provided are responsive to some of SCO's document requests, and that the attorneys will be producing those documents to SCO.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed: November 17, 2004.

Somers, New York



Irving Wladawsky-Berger

CERTIFICATE OF SERVICE


I hereby certify that on the 17th day of November, 2004, a true and correct copy of the foregoing was hand delivered to the following:

Brent O. Hatch
Mark F. James
HATCH, JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, Utah 84101

and was sent by U.S. Mail, postage prepaid, to the following:

Stephen N. Zack
Mark J. Heise
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100 Southeast Second Street, Suite 2800
Miami, Florida 33131

Robert Silver
Edward Normand
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333 Main Street
Armonk, New York 10504



CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of May, 2005, a true and correct copy of the foregoing was sent by U.S. Mail, postage prepaid, to the following:

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A handwritten signature in black ink, appearing to be 'JL', is written over a horizontal line.